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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/895,244	06/29/2001	Michael Wayne Brown	AUS920000711US1	8612
7590	10/11/2006		EXAMINER	
David Victor, Esq 315 South Beverly Dr., Ste. 210 Beverly Hills, CA 90212			APPLE, KIRSTEN SACHWITZ	
			ART UNIT	PAPER NUMBER
			3693	

DATE MAILED: 10/11/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/895,244

Applicant(s)

BROWN ET AL.

Examiner

Kirsten S. Apple

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 July 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-45 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-45 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

EXAMINERS RESPONSE

Claim Rejections - 35 USC § 103

The Examiner has read and reviewed all of the information provided by the Applicant. The examiner rejects as final claims 1-45 under 35 USC 103.

The Applicant attention is re-drawn to the following:

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-45 are rejected under 35 U.S.C. 103(a) as being unpatentable over Belzberg (U.S. Patent 6,047,274) in view of Calabria (Lotus Notes 4.5 and the Internet by Jan Calabria with Sue Plumley)

Re claim 1: Johnson discloses:

A method for implementing an auction, (see Johnson, abstract, "an action service" comprising:

Receiving a request for bid during a indicated time period (see Johnson, Fig 4, item 27 and Johnson, column 15, line 2-3 "during a particular period of time'))

Receiving a bid (see Johnson, Fig 4, item 29)

Although Johnson does not specifically have an calendar feature, Calabria teaches an "electronic calendar for inviting others" (Page 137-142, specifically 139)

Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to add calendar feature as taught in Calabria to Johnson.

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It is clear that one would be motivated to have flexibility and accurately in specifying services for auction. .

Re claim 2: Johnson discloses:

Multiple bids per time slot may be submitted (see Johnson, Fig 4, item 29)

Re claim 3: Johnson discloses:

Determining and accepting most favorable bid in before expiration of bidding period (see Johnson, Fig 4, item 31)

Re claim 4: Johnson discloses:

Notify user and originator of accepted bid (see Johnson, Fig 4, item 35) Storing accepted bid (see Johnson, Fig 4, item 35)

Re claim 5: Johnson discloses:

Frequency indicating multiple bids per time period

Determining and accepting most favorable multiple bids in before expiration of bidding period (see Johnson, Fig 4, item 34)

Re claim 6: Johnson discloses:

Indicates a time period during which the highest bid will be accepted (see Johnson, Figure 4, item 34 the "decision rule " although Johnson does not specify all possible rule that could be applied the examiner expresses Official Notice that a decision rule known to one of ordinary skill at the time of the invention could be for highest bid)

Re claim 7: Johnson discloses:

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Time interval is capable of comprising a day, a week, and a month

Re claim 8: Johnson discloses:

Most favorable bid comprises a lowest amount bid (see Johnson, column 14, line 39-63, specifically 47-53 "the low bid would be selected")

Re claim 9: Johnson discloses:

Accepting each bid having the highest bid amount (see Johnson, Figure 4, item 34 the "decision rule " although Johnson does not specify all possible rule that could be applied the examiner expresses Official Notice that a decision rule known to one of ordinary skill at the time of the invention could be for highest bid)

Re claim 10: Calabria discloses:

Scheduled event records used by a PIM (personal information manager) (see Calabria, page 139)

Re claim 11: Calabria discloses:

User can modify, add or further limit scheduled event records (see Calabria, page 139)

Re claim 12: Calabria discloses:

Template displays time slots (see Calabria, page 138, figure 22.1,

"Time") Re claim 13: Calabria discloses:

Scheduled event record provides a description of scheduled event, if unavailable no description (see Calabria, page 138, figure 22.1, "Brief description")

Re claim 14: Johnson discloses:

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User comprises one of a service provider seeking bidders (see Johnson, Figure 2, Item 2 multiple EP or service Providers)

Re Claim 15

The method claim 1 is similar to claims 15. It would be obvious to one of ordinary skill in the art that these claim have similar limitation. Therefore, claim 15 is rejected based on the information provided regarding claim 1.

Re Claim 16

The method claim 14 is similar to claims 16. It would be obvious to one of ordinary skill in the art that these claim have similar limitation. Therefore, claim 16 is rejected based on the information provided regarding claim 14.

Re Claim 17

The method claim 3 is similar to claim 17. It would be obvious to one of ordinary skill in the art that these claim have similar limitation. Therefore, claim 17 is rejected based on the information provided regarding claim 3.

Re Claims 18-45

The method claims 1-14 are similar to the system claims 18-31 and article of manufacturing claims 32-45. It would be obvious to one of ordinary skill in the art that these claim have similar limitation. Therefore, claims 18-31 & 32-45 are rejected based on the information provided regarding claims 1-14.

Response to Arguments

Applicant's arguments filed 6/30/2006 have been fully considered but they are not persuasive.

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In particular, and respect to Claim 1 the Applicant argued 1st: “nowhere do Johnson and Calabria teach... a template to display a calendar for an indicative time period for which the user is requesting bids for a service showing time slots.”

The Examiner refutes the argument made by the Applicant and draws the attention to Calabria "electronic calendar for inviting others" (Page 137-142, specifically 139). While the examiner believes this references is sufficient evidence she also found additional prior art to further support the evidence of the record. As can be found in Tagawa (US Patent 5,732,398) Figure 4b, item 264 clearly shows a calendar with the user to be using in selecting services.

Applicants argued 2nd, Examiner has not cited any art as teaching that claim requirement that the user requesting bids for available time slots is a service provider requesting that clients bid for the user to provide the services during available time slots based on the user's scheduled events records in the database.

The Examiner refutes the argument made by the Applicant and draws the attention to Johnson and Calabria which the examiner argues is sufficient evidence of these features. In addition, Tagawa shows “available time slots” (Figure 4b, item 264) for services, this prior art is focused primarily on travel services.

Applicants argued 3rd, “the Examiner has not cited that the calendar have a dual use”

The Examiner refutes the argument made by the Applicant and draws the attention to Calabria, which as the Applicant admitted is used for “calendar entry and inviting others to a meeting” this is a dual use it is implicit that a sub-set of meeting would be a paid meeting for a service. The Applicant has already provide an additional reference Tagawa which clearly shows a dual usage of the calendar for booking travel services.

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Applicants argued 4th, prior art does not “provide a description”

The Examiner refutes the argument made by the Applicant and draws the attention to Calabria Page 138, Figure 22.1 this combined with Johnson teaching of bidding process.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Contact Information


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kirsten S. Apple whose telephone number is 571.272.5588. The examiner can normally be reached on Monday - Friday 7:30-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James Trammell can be reached on 571-272-6712. The fax phone number for the organization where this application or proceeding is assigned is 571-272-6126:

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

ksa


ELLA COLBERT
PRIMARY EXAMINER